IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

C.M. Application No. 3940 of 2005
Objection No. 8117 of 2005
In

Writ Petition No. 1514 (S/B) of 2002

Ramesh Chandra,
son of Sri Fate Singh,
resident of Bhimawala,
Vikas Nagar, Dehradun. ……Petitioner.

Versus.

1. Executive Engineer Test and Control Division, Dak Pathar, Dehradun.
2. Sushil Kumar Gupta, Executive Engineer, Lakhwar Byasi Construction Division Dak Pathar, Dehradun.
3. Superintending Engineer, Lakhwar Byasi Nirman Khand, Dehradun.
4. Chief Engineer Yamuna Ghati Pariyojna, Dehradun.
5. Dharmapal working in the Dam of Lakhwar III, Byasi Nirman Khand – III, Dehradun.
6. Sunil Prasad working in Lakhwar III, Byasi Nirman Khand – III, Dehradun.
7. Shyam Singh working in Lakhwar III, Byasi Nirman Khand –III, Dehradun.

……..Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri S.S. Yadav, learned counsel for the petitioner and learned standing counsel for the respondents.

By means of this writ petition, the petitioner has prayed to issue a writ in the nature of mandamus directing the respondents to engage the petitioner on daily wage basis as the respondents no. 5 to 7 have been re-engaged in the department.

The submission of the petitioner is that petitioner and respondents no. 5 to 7 were engaged on daily wage in the year 1984 and worked till 1986 but respondents no. 5 to 7 were re-engaged by the department in pursuance to the order dated

06.05.1992, as they had completed 240 days in a calendar year. This benefit of the Government Order dated 06.05.1992 has not been provided to the petitioner in spite of the fact that he had also worked with the department for more 240 days.

On 06.05.1992, the order was issued by the government directing the Chief Engineer Irrigation not to engage any person on muster roll basis and also remove those persons, who were working on daily wage basis and have completed 240 days in the department prior to 1992.

Respondents have filed counter affidavit, they have stated in the counter affidavit that since the respondents no. 5 to 7 were working as daily wager in the department when the Government Order was issued they had completed 240 days in a calendar year, consequently, they were re-engaged. So far as petitioner is concerned he was engaged in the year 1984 and worked with department till 1986. At the time when the Government Order was issued petitioner was not in service with the department so the benefit of the said Government Order cannot be extended to the petitioner.

Without going into the merit of the case, writ petition is dismissed on the ground of alternative remedy. Petitioner has alternative remedy to prefer Claim Petition before the Industrial Tribunal under Industrial Disputes Act and it is expected from the Industrial Tribunal that in case, the petitioner prefers Claim Petition, the Industrial Tribunal shall decide the same at the earliest, considering the facts that the matter relates to year 1986.

Writ petition is dismissed on the ground of alternative remedy.

(M.M. Ghildiyal, J.)

October 04, 2005
SKSharma